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INADMISSIBLE PURSUANT TO F.R.E. 408**

June 10, 1999

**VIA FACSIMILE AND FEDERAL EXPRESS**

Sherry Estes, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region V  
77 W. Jackson Boulevard (C-29A)  
Chicago, IL 60604

Re: Skinner Landfill Superfund Site - Good Faith Offer

Dear Ms. Estes:

This letter constitutes the good-faith offer of a group of cooperating parties in response to the Special Notice Letter dated February 16, 1999, from the U.S. Environmental Protection Agency, Region V ("EPA") regarding the Skinner Landfill Superfund Site in West Chester, Ohio ("the Site"). Because this submission is solely for the purpose of negotiations pursuant to 42 U.S.C. § 9622, we request that you treat it as a confidential settlement document.

A group of parties, consisting of the group listed at the end of this letter, is willing to conduct or finance the remedial action ("RA") at the Site, provided that we can agree upon the terms of a consent decree, the contents of which we are in the process of negotiating with your office. As of today, it is our understanding that you are reviewing the latest round of proposed additions and deletions provided to your office and will respond with another draft of the consent decree at your earliest convenience. In addition, there are a few other outstanding issues regarding the consent decree that we have not yet resolved. In light of ongoing negotiations concerning the decree and your schedule for finalizing it, the group will endeavor to restrict its suggested revisions to the minimum that we believe is necessary to clarify and protect the rights and interests of all parties.

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The technical capability of this group and its individual members to undertake the RA has been well demonstrated through the management of the Operable Unit 1 work and the remedial design at this Site, and of other remedial investigations, remedial designs and remedial actions by group members at other Superfund sites. Recent examples from Region V with which you are most likely familiar include work at the Pristine Site in Reading, Ohio and the Lemberger Landfill in Whitelaw, Wisconsin.

The cooperating group intends to obtain proposals and bids for performance of the RA within 3-4 weeks of your acceptance of this good faith offer. The group has already received Statements of Qualifications from the following entities: IT Corporation; Earth Tech; Camp Dresser & McKee; Kelchner Environmental; Conestoga-Rovers, Koester; and Foster Wheeler. In addition, we have spoken to several other companies and anticipate receiving Statements of Qualifications from them.

The completion by several of the good faith offer parties of the OU1 work and remedial design at this Site, as well as the remedial action at the sites referenced above, demonstrate the group's capability to finance EPA's selected remedy. We can provide further information regarding the group's financial resources if truly needed.

As you know, several members of this group have worked closely with EPA to ensure a prompt, efficient, and protective response to conditions at the Site. There are other PRPs at the Site, including those that EPA has identified in its Special Notice Letter and in previous administrative orders, that have not undertaken their share of responsibility in response activities. We believe that some PRPs with significant responsibility for Site response costs will continue not to participate. Indeed, even before receipt of EPA's Special Notice Letter, counsel for Plaintiffs in the private cost recovery litigation brought in the Southern District of Ohio contacted a large group of PRPs and arranged numerous conference calls to discuss the formation of a PRP group that could respond to EPA's request for a good-faith offer. Some, but not all, of those PRPs met with the cooperating group for that purpose. Despite this effort, and with the exception of certain de minimis parties mentioned below, we are not aware of other PRPs who intend to cooperate with EPA to clean up this Site.

In light of the significant contributions that certain group members have made for a decade to address Site conditions, and efforts that the entire group is prepared to make to ensure implementation of the RA, we believe that the recalcitrant PRPs should bear a meaningful share of the liability at this Site. To that end, we request that EPA initiate the necessary legal action against those PRPs for EPA's unreimbursed past costs at this Site, future oversight costs incurred by EPA in connection with the Site, and orphan share funding contributed by the government.

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With respect to orphan share funding, we have provided substantial information that supports the basis for our strong contention that orphan share funding by EPA in the amount of \$4 million is both authorized under EPA's orphan share policy and completely justified at this Site. As you know, the Allocator, John Barkett, has concluded that the Site presents unique circumstances with respect to the inequities that those parties agreeing to conduct the final remedy are being asked to shoulder. We fully support Mr. Barkett's analysis of the orphan share issue at this Site. Accordingly, and in light as well of the inability and/or unwillingness of several parties with substantial shares to contribute to the remedy costs, this offer is necessarily made with the condition that maximum orphan share funding be provided consistent with our ongoing discussions with you on this issue. Alternatively, we request that EPA exercise its enforcement discretion and agree to pursue parties other than the good faith offer group for all EPA past and future response and oversight costs.

As you know, a large number of PRPs at the Site have entered into de minimis settlements with Plaintiffs in the above referenced cost recovery action, and we expect several more to do so in the near future. Those settlements call for separate de minimis settlements between EPA and those parties. Because a significant portion of those settlement monies will be designated for reimbursement of response costs other than Plaintiffs' past costs, the good faith offer group considers these settlements (as well as those with responsible federal agencies) an integral part of ensuring that response actions conducted by this group can move forward. In that regard, the group believes that a comprehensive de minimis settlement must move forward on a time frame consistent with the remedial action consent decree, and that a mechanism be established in that settlement to enable use of an appropriate portion of those funds (as well as funds from federal agency settlements) for payment of future response costs. As you know, a specific proposal has been made to you with respect to allocation of de minimis settlement funds. We would also note that those existing settlers consider their willingness to enter de minimis settlements with Plaintiffs and EPA to constitute their response to EPA's Special Notice Letter.

Finally, we have discussed with you the potential sale and redevelopment of all or a portion of the Site. You have agreed to incorporate into the consent decree provisions that would place certain obligations on the Site owners to agree to such a sale and to relinquish sale proceeds as a condition for becoming signatories to the decree and obtaining a covenant not to sue and contribution protection. An acceptable agreement as to these provisions is critical to the good faith offer group, as is an understanding that substantially all of the proceeds of any sale will be employed for purposes of future response costs to be incurred by the group.

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The names, addresses, and telephone numbers of the persons who will represent members of this group in various negotiations are as follows:

For the Consent Decree

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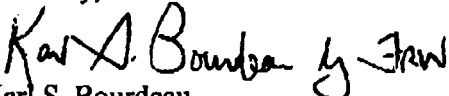
This letter has addressed each of the elements of a "good faith offer" listed in the February 16, 1999 Special Notice Letter. In so doing, the good faith offer group has provided a proposal that is sufficient for EPA to continue its moratorium for the period required to complete negotiations on the consent decree. This will confirm our understanding that you have requested that those negotiations be completed by July 15, 1999. Members of this group are willing to work towards an agreement on a consent decree by July 15, and share EPA's interest in a prompt and equitable resolution of this matter.

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We look forward to speaking with you at your earliest convenience regarding this proposal and other pertinent matters.

Sincerely,

  
Karl S. Bourdeau  
On behalf of the Good Faith Offer Group

Members of the Good Faith Offer Group:

Anchor Hocking/Newell  
Chemical Leaman Tank Lines, Inc.  
Ford Motor Company  
Formica Corporation  
GE Aircraft Engines  
General Motors

Henkel Corporation  
King Container Services, Inc.  
King Wrecking Company, Inc.  
Monsanto  
OXY, USA  
The Dow Chemical Company  
Velsicol Chemical Corporation